

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MONIQUE RUSSELL, JASMINE RIGGINS,
ELSA M. POWELL, and DESIRE EVANS,

Plaintiffs,

v.

EDUCATIONAL COMMISSION FOR
FOREIGN MEDICAL GRADUATES,

Defendant.

Civil Action No. 18-5629

Honorable Joshua D. Wolson

DEFENDANT’S UNOPPOSED MOTION TO SEAL

Defendant Educational Commission for Foreign Medical Graduates (“ECFMG”), by and through its undersigned counsel, respectfully submits this Unopposed Motion to Seal and requests permission to file under seal its Opposition to Plaintiffs’ Motion for Class Certification and Exs. 11, 12, 13, 14, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 36, and 37 thereto. Pursuant to Local Rule 7.1(b), attached hereto is a certificate of counsel stating that this Unopposed Motion is uncontested by Plaintiffs Monique Russell, Jasmine Riggins, Elsa M. Powell, and Desire Evans.

Documents submitted to the Court may be sealed upon a showing of “good cause.” *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994). The Third Circuit has provided a non-exhaustive list of factors for District Courts to consider in determining whether good cause exists to seal a document filed with the Court. *See id.* at 787-91; *see also Glenmede Tr. Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995). Such factors include: “(1) the interest in privacy of the party seeking protection; (2) whether the information is being sought for a legitimate purpose or an improper purpose; (3) the prevention of embarrassment, and whether

that embarrassment would be particularly serious; (4) whether the information sought is important to public health and safety; (5) whether sharing of the information among litigants would promote fairness and efficiency; (6) whether the party benefitting from the order of confidentiality is a public entity or official; and (7) whether the case involves issues important to the public.” *Arnold v. Pa. Dep’t. of Transp.*, 477 F.3d 105, 108 (3d Cir. 2007) (citing *Pansy*, 23 F.3d at 787-88).

Here, good cause exists to seal ECFMG’s Opposition and Exs. 11, 12, 13, 14, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 36, and 37 thereto. The documents at issue reflect private information about the medical histories of Plaintiffs and non-party putative class members, some of which is sensitive in nature and has the potential to cause embarrassment if made public. The *Pansy* factors weigh in favor of sealing because (1) the interest in privacy is heightened because of the type of information at issue, (2) there is little legitimate purpose for making public the information at issue, particularly when the Court can address the issues relating to class certification without making public the specific details of the information at issue, (3) disclosure of the information at issue could result in embarrassment to Plaintiffs or non-party putative class members, (4) the information at issue is not important to public health and safety, (5) sealing the information at issue would not detract from the fairness and efficiency of the proceedings, (6) Plaintiffs and non-party putative class members are not public officials, and (7) the information at issue is not important to the public.

Accordingly, ECFMG respectfully requests that the Court grant its Unopposed Motion to Seal and permit ECFMG to file under seal its Opposition to Plaintiffs’ Motion for Class Certification and Exs. 11, 12, 13, 14, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 36, and 37 thereto.

Respectfully submitted,

Dated: October 28, 2019

/s/ Brian W. Shaffer

Brian W. Shaffer, PA Bar No. 78851

Elisa P. McEnroe, PA Bar No. 206143

MORGAN, LEWIS & BOCKIUS, LLP

1701 Market Street

Philadelphia, PA 19103-2921

Telephone: +1.215.963.5000

Facsimile: +1.215.963.5001

brian.shaffer@morganlewis.com

elisa.mcenroe@morganlewis.com

*Attorneys for the Educational Commission for
Foreign Medical Graduates*

CERTIFICATE OF UNCONTESTED MOTION

Pursuant to Local Rule 7.1(b), the undersigned hereby certifies that the foregoing Unopposed Motion to Seal is uncontested by Plaintiffs Monique Russell, Jasmine Riggins, Elsa M. Powell, and Desire Evans.

DATED: October 28, 2019

/s/ Brian W. Shaffer
Brian W. Shaffer

CERTIFICATE OF SERVICE

I do hereby certify that on this date, I caused true and correct copies of the foregoing document to be served via electronic filing upon all counsel of record via the ECF system and/or e-mail.

DATED: October 28, 2019

/s/ Brian W. Shaffer
Brian W. Shaffer